



Finanziato
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Ministero
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Italiadomani
PIANO NAZIONALE
DI RIPRESA E RESILIENZA



UNIVERSITÀ
DEGLI STUDI
DI PALERMO

English version of the *Introduzione* (by M. Brigaglia, G. Pino, and A. Vallini) to the book *Obbedienza e responsabilità*, Roma Tre Press 2026, pp. 9–11.

Introduction

This book is one of the outcomes of research conducted as part of the PRIN 2022 PNRR *ABIDE project – Rule of Law and the Problem of Responsible Obedience*.

Obedience is a decision-making process that requires, to a certain extent, renouncing the right to act according to one's own judgement and instead submitting to the directives of an authority. This creates a profound tension between obedience and the principles of the rule of law and constitutional democracy, which, at least in part, subordinate the binding nature of authoritative directives to their legality and legitimacy, requiring those subject to them to exercise control over them, which may go as far as refusing to obey.

This is what we mean by the 'problem of responsible obedience': the whole vast range of issues concerning the limits, structure, and optimal regulation of obedience in political-legal contexts shaped by the principles of the rule of law and constitutional democracy. The aim of the ABIDE project was to investigate the problem of responsible obedience from an interdisciplinary perspective, with a particular focus on two of the organisations in which it manifests itself most clearly: the military and the prison system.

At the time the project was conceived, our aim was to help refocus attention on a crucial yet insufficiently explored topic – or at the very least, one explored in a non-systematic manner, with little integration between the perspectives of different disciplines – domestic criminal law and international criminal law, constitutional law and supranational law, the philosophy and sociology of law, the philosophy of practical reasoning and the psychology of decision-making, and the philosophy of language. What we did not anticipate was that the issue would become so rapidly and dramatically topical, against a backdrop of the dangerous erosion of both international law and the very principles

Funded by the European Union - NextGenerationEU under the National Recovery and Resilience Plan (PNRR) – Mission 4 Education and research – Component 2 From research to business - Investment 1.1, Notice Prin 2022 indetto con DD N. 1409 del 14/9/2022, titled “Rule of Law and the Problem of Responsible Obedience (ABIDE)”, proposal code P20229FK2F - CUP B53D23032560001.

of the rule of law and constitutionalism – and of the associated constraints on executive powers, of which the issue of responsible obedience is a crucial juncture.

This book brings together revised versions of the presentations given during the Intensive Study Programme ‘Obedience and Responsibility’, held at the Department of Law of the University of Palermo from 12 to 14 June 2025 (organised by the ABIDE project in collaboration with the Military Judicial Council) and the workshops held at Roma Tre University, on 29 May and 13 June 2025 (organised by the ABIDE Project in collaboration with the Master’s programme in ‘Penitentiary Law and the Constitution’).

The structure of the book reflects the interdisciplinary nature of the project. The issue of responsible obedience is addressed from a theoretical and philosophical perspective in the first two chapters, by Salvatore Di Piazza and Marco Brigaglia, who focus respectively on the language and psychology of obedience, and from the perspective of constitutional law in the subsequent chapters, by Elettra Stradella and Carmine Vizza, the former offering a comparative analysis of how obedience and its limits are treated in contemporary constitutions, and the latter providing brief reflections on the genesis and interpretation of Article 52 of the Italian Constitution. This is followed by a series of chapters focusing on the regulation of obedience as outlined by domestic, common and military criminal law: Alessandro Spena contrasts two models of obedience, ‘blind’ and ‘judicious’, which appear to underpin the regulation of obedience, highlighting their limitations and proposing an alternative model; Domenico Notaro examines the role of obedience within the military legal system and the difficult balance between the risk of obeying unlawful orders and the risk of facing sanctions for disobedience; Luca Sergio traces the evolution of the relationship between the duty of obedience and unlawful orders in Italian military criminal law, concluding with some points for comparison; Roberto Galasso examines the relationship between the criminal court’s review and administrative merit in relation to cases of disobedience to an unlawful order and failure to comply with instructions received; Maurizio Lubrano’s contribution focuses on the scope of the ‘particular tenuity of the offence’ in cases of failure to comply with instructions received; Finally, Vincenzo Santoro addresses the issue of the distinctions between the offences of disobedience, failure to carry out an assignment, failure to carry out instructions received, and failure to report for duty. The next three contributions, by Antonio Vallini, Lorenzo Acconciamesa and Federica Ceccaroni, adopt the perspective of international law: Vallini reconstructs the various dynamics of the defence of obedience to orders in international criminal law; Acconciamesa, on the other hand, focuses on the relevance of international human rights law in determining the legality or illegality of an order; Ceccaroni’s contribution also centres on the defence of obedience to orders in international criminal law, with specific attention to the macro-criminal context, such as large-scale human rights violations and

crimes against humanity. Vincenzo Militello's contribution broadens the scope of the investigation – which otherwise centres on obedience within public institutions with a hierarchical structure – to the relevance of orders in private relationships and their connection to the criminal liability of legal entities. The following two chapters, by Patrizio Gonnella and Pasquale Prencipe, focus specifically on the prison system: Gonnella, in reconstructing the role of orders and obedience within the specific context of prison services, highlights the tension between constitutional legality and the informal practices of staff; Prencipe's contribution also offers an overview of obedience within the prison system, taking into account the role of various normative sources and prison-culture, based on an analysis of questionnaires administered to prison staff as part of the ABIDE project. In the following chapter, Matija Žgur analyses the issue of obedience to unlawful orders in public administration, focusing on frontline officials and using the case of the Slovenian 'Erased' as a case study. Finally, the book's last chapter features an interview with Maurizio Block, Military General Prosecutor at the Court of Cassation, on the topic of responsible obedience, which was conducted as part of the ABIDE project.

Marco Brigaglia

Giorgio Pino

Antonio Vallini